

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

DONNA GARBACCIO, individually and on behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	Civil Action
	)	
v.	)	No. 2:16-cv-02740(JMV)(JBC)
	)	
ST. JOSEPH’S HOSPITAL AND	)	Honorable John Michael Vazquez
MEDICAL CENTER AND	)	United States District Judge
SUBSIDIARIES, <i>et al.</i> ,	)	
	)	Honorable James B. Clark
	)	United States Magistrate Judge
Defendants.	)	
	)	CLASS ACTION

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**DECLARATION OF HOWARD SHAPIRO**

Howard Shapiro, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner in the law firm of Proskauer Rose LLP, counsel to Defendants in the above-captioned matter.
2. I submit this Declaration detailing Defendants’ compliance with the notice requirements of the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.* (“CAFA”).
3. Attached hereto as Exhibit 1 is a true and correct copy of the letter sent pursuant to CAFA (“CAFA Notice”) on August 11, 2017, to the Attorney General of the United States. *See* 28 U.S.C. § 1715(a)(1). A substantially similar letter was sent to the Attorneys General for all United States and United States Territories in which a class member resided. *See* 28 U.S.C.

§ 1715(b).<sup>1</sup>

4. The CAFA Notice provided the definition of the Settlement Class. Enclosed with the CAFA Notice were copies of: (i) the Class Action Complaints; (ii) the Motion for Preliminary Approval, containing as exhibits copies of the Settlement Agreement, the proposed preliminary order, the proposed notices to the class members; and (iii) the Declaration of Karen Handorf in Support of the Motion for Preliminary Approval, containing as exhibits copies of the Settlement Agreement (which contains copies of the proposed class notice and proposed final judgment), and Plaintiffs' Counsel's firm resumes. Also enclosed was a table providing a reasonable estimate of the number of class members residing in each State. (*See* Exhibit 1).

5. In response to the CAFA Notice, the Office of the Attorney General of the State of Washington sent an email dated September 11, 2017, to counsel for Defendants acknowledging receipt of the CAFA Notice. Attached hereto as Exhibit 2 is a true and correct copy of that email.

6. Other than the communication described in this Declaration, counsel for Defendants has not received any communications from the recipients of the CAFA Notices.

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<sup>1</sup> Specifically, notices were sent to the Attorneys General for Alabama; Alaska; Arizona; Arkansas; California; Colorado; Connecticut; Delaware; District of Columbia; Florida; Georgia; Hawaii; Idaho; Illinois; Indiana; Iowa; Kansas; Kentucky; Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Missouri; Montana; Nebraska; Nevada; New Hampshire; New Jersey; New Mexico; New York; North Carolina; North Dakota; Ohio; Oklahoma; Oregon; Pennsylvania; Rhode Island; South Carolina; South Dakota; Tennessee; Texas; Utah; Vermont; Virginia; Washington; West Virginia; Wisconsin; Wyoming; Puerto Rico, Guam, and American Samoa. Upon request, Defendants will make available for the Court's review all sent CAFA Notices.

7. To the best of my knowledge, Defendants have fully complied with CAFA and have satisfied all their obligations thereunder.

I declare under penalty of perjury that the foregoing statements are true and correct.

/s/ Howard Shapiro  
HOWARD SHAPIRO

Dated: January 19, 2018  
New Orleans, Louisiana

# **EXHIBIT 1**



Proskauer Rose LLP 650 Poydras Street, Suite 1800 New Orleans, LA 70130-6146

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August 11, 2017

**By First Class Mail Return; Receipt Requested**

The Honorable Jefferson Beauregard Sessions, III  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: *Garbaccio v. Saint Joseph's Hospital & Medical Center*, No. 2:16-cv-02740,  
United States District Court for the District of New Jersey

Dear Attorney General Sessions:

Pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, Defendants St. Joseph's Hospital and Medical Center and Subsidiaries, St. Joseph's Hospital and Medical Center d/b/a St. Joseph's Regional Medical Center, St. Joseph's Healthcare System, Inc., and St. Joseph's Regional Medical Center Pension Plan Committee ("Defendants"), through undersigned counsel, write to give notice of a proposed settlement in the above-referenced matter.

On August 3, 2017, Plaintiffs' Counsel filed Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") and exhibits.

The Settlement Agreement contemplates that the Court will certify a class, for settlement purposes only, defined as: All present and former participants (vested or nonvested) or beneficiaries of St. Joseph's Healthcare System Pension Plan as of the Effective Date of Settlement.

Enclosed with this letter are copies of: (i) the Class Action Complaints; and (ii) the Motion for Preliminary Approval, which contains as exhibits copies of the Settlement Agreement, the proposed preliminary order, the proposed notices to the class members, the Declaration of Karen Handorf in Support of the Motion for Preliminary Approval, copies of Plaintiffs' Counsel's firm résumés, and the proposed final order. Also enclosed is a table providing a reasonable estimate of the number of class members residing in each state.

The Settlement Agreement calls for Defendants to contribute \$42.5 million to the Plan for funding purposes. The settlement also calls for certain agreed-upon plan provisions to be



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U.S. Department of Justice  
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followed by the Plan. Because defined benefit plan trust funds hold assets collectively in trust for the benefit of all plan participants and beneficiaries, no specific portions of the \$42.5 million are allocable to any single settlement class member. And, to fulfill the terms of the settlement, Defendants already have contributed \$45 million to the Plan.

The Settlement Agreement also provides for the payment of up to \$2.5 million, to be awarded in the Court's sole discretion, for Plaintiffs' Counsel's fees, Plaintiffs' expenses and/or incentive fees for Plaintiffs.

There are no judicial hearings scheduled at this time. There are no other agreements between class counsel and counsel for Defendants, there are no final judgments or notices of dismissal in this matter, and there are no written judicial opinions relating to the materials described under 28 U.S.C. §§ 1715(b)(3)-(6).

We appreciate your time and attention to this matter. Please contact me with any questions or concerns.

Sincerely yours,

A handwritten signature in blue ink that reads "Howard Shapiro".

Howard Shapiro

cc, via e-mail:

Karen L. Handorf, Esq.  
Lynn L. Sarko, Esq.

# **EXHIBIT 2**

**From:** ATG MI WA CAFA-PrivateCP Lawsuits [<mailto:privatecpa@ATG.WA.GOV>]  
**Sent:** Monday, September 11, 2017 1:50 PM  
**To:** Shapiro, Howard  
**Subject:** RE: Matter # 10772797, Garbaccio v. Saint Joseph's Hospital & Medical Center

**Sent on behalf of Assistant Attorney General Amy Teng:**

Dear Mr. Shapiro:

This message acknowledges that we have received notice from you regarding the above mentioned case pursuant to the Class Action Fairness Act of 2005, 28 U.S.C § 1715 (CAFA).

Thank you for bringing this matter to the attention of the Washington State Attorney General's Office, Consumer Protection Division.

Sincerely,

*Donnelle Brooke*  
Paralegal  
Office of the Attorney General  
Consumer Protection Division  
Phone-206-464-6562

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This message and its attachments are sent from a law firm and may contain information that is confidential and protected by privilege from disclosure.

If you are not the intended recipient, you are prohibited from printing, copying, forwarding or saving them.

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